

**Testimony of Mr. Andrew S. Fisher**  
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**Atlanta, GA**  
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Mr. Chairman and distinguished members of this Committee, I am here today on behalf of the National Association of Broadcasters, where I am a member of the television board, and local network affiliates.

I want to thank the chairman and the distinguished members of this Committee for another opportunity to speak to you. When I was before this panel in October, I made two straightforward points, and I will do so again today.

My first point is this: Congress should not be in the business of rewarding industries that willfully and repeatedly violate the law. I am speaking of course of the satellite industry, and of one company in particular, PrimeTime 24. The Satellite Home Viewer Act was very clear about which satellite customers were eligible for distant network service. PrimeTime 24 knew those prerequisites, and simply ignored them.

Judge Lenore Nesbitt, the federal judge in Miami who heard broadcasters' case against PrimeTime 24, put it best, and I quote: "PrimeTime made a conscious decision to flout the law when it was well aware of what the law required. PrimeTime does not restrict its sale of network programming to locations that local stations have stated are unserved. In fact, PrimeTime places no geographical limits on its sale of CBS or Fox programming," end quote.

As a result of this indiscriminate marketing, the vast majority of those satellite subscribers who signed up for distant network service are ineligible to receive it. Many of these subscribers are within stations' Grade A contours, but many are located in the area between the Grade A and Grade B contours.

Mr. Chairman, Judge Nesbitt was also right to conclude that quote, "a company cannot build a business on infringements and then argue that enforcing the law will cripple that business."

But this is exactly what the satellite industry is arguing before you and your colleagues today. A decision to grandfather customers that they obtained by violating federal law will merely reward them for breaking the law.

The satellite industry is itself now experiencing a direct parallel to this situation. Last week, a federal grand jury in Washington State indicted four individuals for selling counterfeit access cards, which can be used to illegally receive DirectTV

and United States Satellite Broadcasting programming free of charge. DirectTV wasted no time in firing off a news release commending the U.S. Attorney's office for seeking this indictment. Consumers who bought those counterfeit cards are going to lose a service they've come to enjoy, but do they have any more right to DirectTV's signal than the millions of people PrimeTime 24 illegally signed up to receive distant network service?

Of course not. To grandfather these illegally obtained distant network customers makes no more sense than allowing people who purchased counterfeit access cards to go on receiving DirectTV for free.

Such an idea is not only contradictory to common sense, it is also a threat to localism. Local stations would make less revenue in a smaller market. Less revenue would mean less money for important local programming such as news, community affairs and public safety.

The serious implications for our local broadcast system are obvious. It is local broadcast stations, not national satellite networks, which communicate with local communities. It is local stations that issue emergency weather reports and local news bulletins. It is local stations that host candidate debates and provide other critical information about campaigns for public office.

We have heard much talk about the need to provide some relief for the satellite customers involved in this controversy. But I believe there is a far larger universe of consumers -- the millions of Americans who do not own satellite dishes, and rely on free, over-the-air television -- who will be the losers if you make an exception for these few.

The second point I want to make to you is that the issue here is not whether your constituents with satellite dishes can watch programming from the Big Four broadcast networks. The issue is: what is the proper source of that programming? The Satellite Home Viewer Act makes it clear that local broadcast affiliates are the proper source, except in the instances where people cannot receive the signals of their local affiliates. I would submit to you that the majority of the illegal satellite subscribers are not in this limited group.

Your constituents are not losing access to network programming. In most cases, for satellite subscribers covered by the Feb. 28 termination order, the only thing preventing their reception of network programming from free, over-the-air network affiliates is the lack of a properly installed antenna.

It is ironic to me that two big DBS operators, DirecTV and USSB earlier this year signed co-marketing deals with big regional phone companies, including Bell Atlantic Corp. and GTE Corp. The phone companies have started offering turn-key satellite services, including powerful new antennae capable of tapping

local TV channels with the mere zap of a remote control. If such a solution is good enough for the satellite companies' new customers, why isn't it the solution for the customers to whom they sold satellite service under the false pretense that they had a legal right to distant network signals?

Rather than asking you to sanction their illegal behavior after the fact, the satellite industry should engage in some good old-fashioned customer relations. They should offer to reimburse each of these customers for the cost of purchasing and installing one of these powerful new antennae as compensation for the inconvenience they have caused. After all, the \$75 cost of such a gesture pales in comparison to the \$557 million they earned by selling this service illegally.

Mr. Chairman, I believe the proper use of conventional antennae, coupled with your authorization of local-to-local service, is the solution to this problem, not rewarding illegal business behavior.

The need for a TV antenna is no threat to the competitive ability of the satellite industry, as they would have you believe. In fact, since Judge Nesbitt issued the permanent injunction preventing the satellite industry from signing up new illegal subscribers and DirectTV began to offer the antenna option, the satellite industry has set new sales records each month.

Finally, Mr. Chairman let me conclude by saying that I believe the willful manner in which at least one company violated the distant network service provision of the Satellite Home Viewer Act is the very reason you should reauthorize the service with a definite sunset in the future.

This will give Congress the opportunity to revisit this issue in the future to determine whether the satellite industry has cleaned up its act or whether they will again violate the exception with impunity.

Granting a permanent extension of the license to offer distant network service would simply be another way to reward an industry that has demonstrated a willful disregard for the law. They no more deserve such a reward than they deserve to keep hundreds of thousands of ill-gotten customers.

Thank you and I'll be happy to answer any questions.